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NEW YORK NY 10017

MAILED

MAY 13 2009

OFFICE OF PETITIONS

In re Patent No. 7,229,636 :  
Issue Date: June 12, 2007 :  
Application No. 10/787,385 :  
Filed: February 26, 2004 :  
Attorney Docket No. 12399-001-999 :

ON PETITION

This is a decision on the petition, filed March 6, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED** as moot.

In reply to the Notice of Allowance and Issue Fee(s) Due mailed December 13, 2006, the issue fee was duly paid on March 13, 2007.

On June 12, 2007, U.S. Patent No. 7,229,636 issued on the instant application.

The instant petition was filed March 6, 2009.

Petitioner states that the above-identified application may have become abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. Accordingly, petitioner requests that, if the USPTO deems it necessary, the patentee's failure to timely file a Rescission of Previous Nonpublication Request (35 U.S.C. 122(b)(2)(B)(ii)) and, if applicable, Notice of Foreign Filing (35 U.S.C. 122(b)(2)(B)(iii)) be corrected and the Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)) be retroactively accepted should the USPTO deem it necessary. Petitioner states that PCT/US2006/024685 is not a counterpart application to the above-noted application.

As set forth in MPEP 1305:

Once the patent has been granted, the U.S. Patent and Trademark Office can take no action concerning it, except as provided in 35 U.S.C. 135, 35 U.S.C. 251 through 256, 35 U.S.C. 302 through 307 and 35 U.S.C. 311 through 316.

Accordingly, once the patent is granted, the Office has no jurisdiction over the patent. Also, see *Aristocrat Technologies Australia v. International Game Technologies* 2008 U.S. App. LEXIS

20060 (Fed. Cir. 2008) "[p]rocedural lapses during examination, should they occur, do not provide grounds of invalidity. Absent proof of inequitable conduct, the examiner's or the applicant's absolute compliance with the internal rules of patent examination becomes irrelevant after the patent has issued." The case was decided September 22, 2008.

The petition fee of \$810.00, submitted on March 6, 2009, is being credited to petitioner's deposit account as authorized.

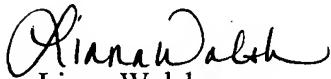
Further correspondence with respect to this matter should be addressed as follows:

By Mail:                   Mail Stop PETITION  
                                 Commissioner for Patents  
                                 Post Office Box 1450  
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By hand:                   U. S. Patent and Trademark Office  
                                 Customer Service Window, Mail Stop Petitions  
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                                 401 Dulany Street  
                                 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries should be directed to the undersigned at (571) 272-3206.



Liana Walsh  
Petitions Examiner  
Office of Petitions